

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TIMOTHY LEROY STRAETEN,)	
)	
Plaintiff,)	
)	
v.)	No. 4:09CV812 CDP
)	
DON ROPER, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Before the Court is plaintiff's pre-service motion to amend his complaint. Because a plaintiff may amend his complaint once as a matter of course before being served with a responsive pleading, the Court will grant plaintiff's motion. The Court notes, however, that plaintiff should keep in mind the requirements of Federal Rules of Civil Procedure 8 and 10 when drafting his amended complaint.

Rule 8(a) requires that a complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief, and . . . a demand for judgment for the relief the pleader seeks." Rule 8(e) requires that "[e]ach averment of a pleading shall be simple, concise, and direct." And Rule 10(b) requires that "[a]ll averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances."

Plaintiff's original complaint is long and rambling, names multiple defendants relating to multiple different purported acts, and does not contain a short and plain

statement showing that plaintiff is entitled to relief. The allegations are not simple, concise, or direct. And there are no numbered paragraphs.


Plaintiff shall have 30 days from the date of this Order to file an amended complaint. Plaintiff is warned that the filing of an amended complaint replaces the original complaint, and claims that are not realleged are deemed abandoned. E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation, 396 F.3d 922, 928 (8th Cir. 2005). If plaintiff fails to file an amended complaint within 30 days, the Court will review the original complaint, including the deficiencies outlined above, pursuant to 28 U.S.C. § 1915.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to amend his complaint [Doc. #4] is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint **no later than 30 days from the date of this Order.**

Dated this 16th day of July, 2009.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE